

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6362 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BACHUBHAI RAIJIBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR AJ PATEL for Petitioners

MR TH SOMPURA, ASST.GOVERNMENT PLEADER for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 09/01/97

ORAL JUDGEMENT

The respondent No.2-Competent Authority has decided the matter under the orders dated September 29, 1993 and has declared certain lands as surplus under the Urban Land (Ceiling and Regulation) Act, 1976. The petitioners had an unsuccessful revision under Section 34 of the said Act. It was the say of the petitioners that they should be given an opportunity to indicate their choice regarding the land which they would like to retain and regarding the land which could be declared as surplus. It appears that the Government was of the

opinion that this should be done. This is clear from a communication dated January 11, 1996 issued under the signature of the Section Officer, Revenue Department, State of Gujarat, available at Annexure.C, addressed to the Competent Authority, Vadodara. It has been said that, according to the relevant provisions of the Act of 1976, the petitioners should be given the opportunity of making the selection. The grievance is that, despite the above said communication, no action is being taken by the Competent Authority, in this respect.

Upon hearing learned Counsel Mr.Patel for the petitioners and learned Government Counsel Mr. T.H.Sompura, it appears that the Competent Authority at Vadodara is not complying with the orders of the Government, as indicated under the communication dated January 11, 1996. The legal position in this respect is abundantly clear. When the land is being declared as surplus, the opportunity of making the selection requires to be given to the holders. In view of this, the present petition succeeds and the same is allowed. The Competent Authority, Vadodara is hereby ordered and directed to act according to the communication dated January 11, 1996 available at Annexure.C. While completing these formalities, the Competent Authority shall grant a reasonable opportunity of being heard to the petitioners and shall decide the matter according to law and on merits. Rule is made absolute accordingly.

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